

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

BRYAN BOOREN and SHARIN  
METCALF,

Plaintiffs,

v.

MB LAW GROUP, LLP;.

Defendants.

CASE NO. 3:20-cv-06163-RJB

ORDER DENYING MOTIONS FOR  
RECONSIDERATION AND FOR  
SANCTIONS

This matter comes before the Court on Plaintiffs' Motion for Reconsideration and for Sanctions (Dkt. 40) and Plaintiffs' Amended Motion for Reconsideration and for Sanctions (Dkt. 41). The Court has considered the motions, the underlying order (Dkt. 34), and the file herein.

Plaintiffs ask the Court to reconsider its order denying Plaintiff's Motion for Judgment on the Pleadings (Dkt. 34).<sup>1</sup> The order denied that motion because it was prematurely filed before the close of pleadings. Dkt. 34. In the pending motions, Plaintiffs argue that the Court erred

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<sup>1</sup> Plaintiffs are proceeding *pro se*. The Motion for Judgment on the Pleadings was made by only Plaintiff Bryan Booren, while the pending motions are made by both Plaintiffs.

1 because “no answers can be filed; at least not without sanctions being imposed” and “[t]his is a  
2 case that can be decided on documents that are admissible and cannot be properly refuted and  
3 Plaintiffs are entitled to a judgment as a matter of law.” Dkt. 41 at 2–3. Plaintiff also argues that  
4 “Defendants should be sanctioned for opposing [the motion for judgment on the pleadings.” *Id.*  
5 at 3.

## 6 **DISCUSSION**

### 7 **A. MOTION FOR RECONSIDERATION**

8 Local Civil Rule 7(h)(1) provides, “[m]otions for reconsideration are disfavored. The  
9 court will ordinarily deny such motions in the absence of a showing of manifest error in the prior  
10 ruling or a showing of new facts or legal authority which could not have been brought to its  
11 attention earlier with reasonable diligence.” Plaintiff has neither shown manifest error nor new  
12 facts or legal authority.

13 Under FRCP 4(d)(3), a defendant that executes a waiver of service has 60 days from the  
14 date the waiver was sent to answer the complaint. Waiver, however, is voluntary. A defendant  
15 that does not execute a waiver of service must answer “within 21 days after being served the  
16 summons and complaint[.]” FRCP 12(a)(1)(A)(i).

17 There are multiple defendants in this case, and the time allowed answer will vary  
18 depending on when the defendant was served and whether the defendant executed a waiver of  
19 service. It appears that Defendants Fannie Mae and FNMA REMIC 2006-17 Trust executed a  
20 waiver of service on December 3, 2020 and, therefore, have until February 1, 2020 to respond.  
21 *See* Dkt. 14. The record does not show that Plaintiffs completed service to other defendants.

22 Plaintiffs have neither shown that no answer has been filed within the time allowed by  
23 the rules of federal civil procedure, nor that the pleadings, as filed by both parties, disclose that  
24

1 there are no material issues of fact. Plaintiffs have not, therefore, shown manifest error and their  
2 motion for reconsideration should be denied.

3 **B. MOTION FOR SANCTIONS**

4 Plaintiffs also request that the Court issue sanctions because “[a]ny denial of the sworn  
5 allegations of the complaint will be false and a violation of FRCP Rule 11.” Dkt. 41 at 3.

6 FRCP 11(b) prohibits a party from making frivolous, harassing, or false representations.  
7 Plaintiff appears to argue that he is either entitled to judgment as a matter of law or Defendants  
8 will violate FRCP 11. Dkt. 41 at 2. FRCP 11, however, issues sanctions for past representations  
9 that violate the rule; it does not operate in conjecture.

10 Plaintiffs’ motion for sanctions should be denied.

11 **ORDER**

12 Therefore, it is hereby **ORDERED** that:

- 13 • Plaintiffs’ Motion for Reconsideration and for Sanctions (Dkt. 40) and Amended  
14 Motion for Reconsideration and for Sanctions (Dkt. 41) **ARE DENIED**.

15 The Clerk is directed to send uncertified copies of this Order to all counsel of record and  
16 to any party appearing pro se at said party’s last known address.

17 Dated this 23<sup>rd</sup> day of December, 2020.

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19 ROBERT J. BRYAN  
20 United States District Judge